

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DARIEN HOUSER,)	16-cv-1039
)	
Plaintiff,)	ELECTRONICALLY FILED
)	
v.)	
)	
WETZEL, et al.,)	
Defendants.)	

**MEMORANDUM ORDER RE: PLAINTIFF’S OBJECTIONS ([Doc. #138](#)) TO
MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION ([Doc. #135](#))**

This prisoner civil rights suit was commenced on July 14, 2016 with the submission of a complaint and a petition to proceed *in forma pauperis* and was referred to United States Magistrate Judge Cynthia Reed Eddy for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges. The case was administratively closed pending payment of the initial partial filing fee. Payment of the partial filing fee was received on November 8, 2016, and the case was reopened. ([Doc. #20](#)). A delay ensued again during which time the U.S. Marshal was effectuating service on the approximately twenty-five (25) named defendants.

In January of 2017, the DOC Defendants filed a motion for more definite statement. By Order of February 1, 2017, the Magistrate Judge granted the motion for more definite statement and ordered Plaintiff to file an amended complaint which complies with Federal Rules of Civil Procedure 8, 11, and 20 by March 7, 2017. Plaintiff was specifically advised “that the opportunity to file an amended complaint was not an invitation to enlarge the lawsuit by filing new allegations not related to the allegations in the original complaint or by adding defendants not related to the allegations in the original complaint.” ([Doc. #53](#)).

On March 8, 2017, Plaintiff's Amended Complaint was filed. ([Doc. #56](#)). On September 6, 2017, the Medical Defendants filed a Motion to Dismiss. ([Doc. #127](#)). Plaintiff was ordered to respond to the motion by October 6, 2017, and was advised that failure to comply with the Order may result in the motion to dismiss being decided without the benefit of his response. ([Doc. #129](#)).

On October 24, 2017, in the absence of any timely response, the magistrate judge deemed the motion to dismiss to be ripe for resolution and filed a Report and Recommendation ("R&R") recommending that the motion to dismiss be granted and that Defendants Jin, Park, Mwaura, Clites and Hice be dismissed with prejudice. ([Doc. #135](#)). Service of the R&R was made on Plaintiff at his listed address of record. Plaintiff filed timely objections to the R&R on November 15, 2017. ([Doc. #138](#)).

Where, as here, objections have been filed, the court is required to make a *de novo* determination about those portions of the R&R to which objections were made. *See* 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b). The district court may accept, reject, or modify the recommended disposition, as well as receive further evidence or return the matter to the magistrate judge with instructions.

The Court finds that Plaintiff's objections do not undermine the recommendation of the Magistrate Judge. Plaintiff raises several objections, none of which requires additional comment. Plaintiff's objections are nothing more than a restatement of the claims in his Amended Complaint, which were discussed and soundly rejected in the R&R.

After *de novo* review of the pleadings and documents in this case, together with the Report and Recommendation, and the Objections thereto, the Court finds that the Report and

Recommendation should be adopted as the opinion of the Court. Accordingly, it is **ORDERED** that the Medical Defendants' Motion to Dismiss is **GRANTED** and Defendants Jin, Park, Mwaura, Clites, and Hice are hereby dismissed with prejudice.

In sum, the only claims remaining in this case are against DOC Defendants Sgt. Demaske, Sgt. George, John Doe Corrections Officer, Widenor, and John Doe Supervising Lieutenant, and Lt. Santoya arising from the retaliation allegations contained in Paragraphs 17, 18, and 20.

It is further **ORDERED** that the Report and Recommendation ([Doc. #135](#)) is **ADOPTED** as the Opinion of the Court.

This matter is referred back to Magistrate Judge Eddy for all further pretrial proceedings.

SO ORDERED this 22nd day of November, 2017.

s/Arthur J. Schwab
Arthur J. Schwab
United States District Judge

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